

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

INTERSTATE POWER AND LIGHT COMPANY, Plaintiff, v. IOWA UTILITIES BOARD A DIVISION OF THE DEPARTMENT OF COMMERCE STATE OF IOWA Defendant.	CASE NO. CVCV065011 APPLICATION FOR INTERVENTION OF IOWA UTILITY ASSOCIATION
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The Iowa Utility Association (“IUA”), pursuant to Iowa Rule of Civil Procedure 1.407, applies for intervention in this matter, and in support of its Application states:

1. The IUA is a 501(c)(6) non-profit corporation that works with its member companies—Iowa’s investor owned electric, natural gas, and transmission utilities, as well as associate members that include renewable energy developers—to develop, coordinate, and promote common industry public policy. IUA member utility companies deliver indispensable energy for Iowans—approximately 72 percent of electricity in Iowa and approximately 85 to 95 percent of Iowa’s natural gas. These members include MidAmerican Energy Company, ITC Midwest LLC, and Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy.¹

2. This matter involves a Petition for Judicial Review filed by Interstate Power and Light (“IPL”) after the Iowa Utilities Board (“Board”) entered a Final Order on November 9, 2022, and a subsequent Order Addressing Motion for Reconsideration or Rehearing on

¹ IUA’s membership also includes Interstate Power and Light, who as plaintiff in this matter is not participating through IUA.

December 29, 2022, denying IPL's request for advance ratemaking principles in Board Docket RPU-2021-0003.

3. The ability to seek advance ratemaking principles was adopted by the Iowa Legislature to

attract the development of electric power generating and transmission facilities within the state in sufficient quantity to ensure reliable electric service to Iowa consumers and provide economic benefits to the state. It is also the intent of the general assembly to encourage rate-regulated public utilities to consider altering existing electric generating facilities, where reasonable, to manage carbon emission intensity in order to facilitate the transition to a carbon-constrained environment.

* * *

The general assembly's intent with regard to the reliability of electric service to Iowa consumers, as provided in subsection 1, shall be implemented by considering the diversity of the types of fuel used to generate electricity, the availability and reliability of fuel supplies, and the impact of the volatility of fuel costs.

* * *

It is the intent of the general assembly to encourage the development of renewable electric power generation. It is also the intent of the general assembly to encourage the use of renewable power to meet local electric needs and the development of transmission capacity to export wind power generated in Iowa.

Iowa Code §§ 476.53(1), (2)(b), and 476.53A.

4. Many of IUA's members are impacted, both directly and indirectly, when the Board approves – or, as in this case, erroneously denies – advance ratemaking principles. Some members are utilities eligible to seek advance ratemaking principles, and are harmed if precedents are set that apply the relevant statutes and legislative intent incorrectly. Some IUA members develop renewable energy generation in markets that are materially impacted by whether utilities who purchase the generation projects or the electricity generated can obtain the

certainty of advance ratemaking principles. And other IUA members build and operate portions of the electric transmission grid connecting generation resources and utilities, and their plans are materially impacted by proposals approved or denied advance ratemaking principles.

5. Under Iowa Rule of Civil Procedure 1.407(1)(b), a party may intervene as a matter of right to become a party to the action when the applicant claims an interest in the subject action that may be affected by the proceeding, and that interest is not represented by existing parties.

6. The IUA and its members have an interest in the subject action that may be affected by this proceeding. That interest is different from the interest of IPL in several respects. First, IUA members have different roles in the electric system, and the impacts on those members (and the information they can contribute to the arguments in this case) are distinct from those of IPL. Second, while IPL will necessarily litigate the facts and record of its specific case, IUA is concerned with the bigger picture and the precedent set by the Board's (and ultimately this Court's) decision on future cases. Put differently, IUA has a unique interest in the broader law and policy implications that is not the same as that of IPL.

7. IUA is permitted to intervene by right under Iowa Rule of Civil Procedure 1.407(1)(b). IUA has an interest relating to the transaction – in this case, IPL's proposed advance ratemaking principles. The disposition of this case could directly impact the business of certain IUA members (for example, the Board has continued to approve solar energy projects even as it denied advanced ratemaking principles, which clearly impacts the market for the projects). It will also make precedent that will impact future Board cases in which IUA members *other* than IPL will be involved. Because IPL does not participate in all of the potentially-impacted roles in the industry that IUA's broader membership does, and because IPL's

immediate interest will be to prevail in its own case rather than to address broader issues of policy and precedent, IPL will not adequately represent the interests of IUA as a trade association or its diverse members. As a result, IUA is “so situated that the disposition of the action may as a practical matter impair or impede” IUA’s ability to protect its, and its members, interests without intervention.

8. Alternatively, IUA should be granted permissive intervention under Iowa Rule of Civil Procedure 1.407(2). *See Rick v. Boegel*, 205 N.W.2d 713, 717 (Iowa 1973) (intervention is remedial and is to be liberally construed to reduce litigation and expeditiously determine matters before the court); *see also Lakes Gas Co. v. Terminal Properties, Inc.*, 720 N.W.2d 192 (2006) (Table, text in Westlaw) (citing *Boegel* for same proposition). In this case, IUA’s arguments will address the same questions of law as the “main action,” *see* Iowa R. Civ. P. 1.407(2)(b), but may provide different considerations for the Court to consider and will represent a broader scope of rights and interests than IPL, companies who will be impacted without recourse if they have no voice in this proceeding.

9. Moreover, this timely intervention at an early stage of the case will not “unduly delay or prejudice the adjudication of the rights of the original parties.” *See* IRCP 1.407(2)(c). To the contrary, IUA accepts the existing schedule ordered on February 27, 2023 and can file its brief “on or before 4/30/2023,” along with IPL, causing no delay in the proceeding.

Accordingly, IUA respectfully requests that the Court grant its intervention as a party with full rights to participate in this proceeding.

Filed this 16th day of March 2023.

By: /s/ Bret A. Dublinske

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CERTIFICATE OF SERVICE

The undersigned certifies that on the 16th day of March, 2023, the foregoing document was electronically filed with the Clerk of Court using the EDMS system which will send a notice of electronic filing to all counsel of record registered with the EDMS system.

/s/ Natalie Rider

Natalie Rider